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5 Attorneys for Plaintiff Michael Zeleny
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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10

11 MICHAEL ZELENY,

12 Plaintiff,

13 vs.

14 GAVIN NEWSOM, *et al.*,

15 Defendants.
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Case No. CV 17-7357 JCS

Assigned to:

The Honorable Richard G. Seeborg

Discovery Matters:

The Honorable Thomas S. Hixson

**DECLARATION OF DAMION ROBINSON
IN SUPPORT OF OPPOSITION TO
MOTION TO DISMISS SECOND
AMENDED COMPLAINT**

Date: November 15, 2019

Time: 1:30 p.m.

Courtroom: 3, 17th Floor

Action Filed: December 28, 2017

Trial Date: November 18, 2019
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1 I, Damion Robinson, declare:

2 1. I and my law firm are counsel of record to plaintiff Michael Zeleny in this action. I
3 have personal knowledge of the facts below. I could testify competently to these facts if called upon
4 to do so.

5 2. Attached hereto as **Exhibit A** is a true copy of an email from Dave Bertini to
6 “jdixon@a16z.com.” This document was produced by defendant City of Menlo Park in discovery in
7 this matter.

8 I declare under penalty of perjury under the laws of the United States that the foregoing is
9 true and correct. Executed this 16th day of October at Los Angeles, California.

10 s/ Damion Robinson
11 Damion D. D. Robinson
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Exhibit A

From: Bertini, David C
To: jdixon@a16z.com
Subject: FW: Special Event Permit Application
Date: Wednesday, July 22, 2015 1:24:00 PM

Good afternoon Jessie.

Below is the email I reference in our conversation today.

I will be back in touch when we set the planning meeting, but in the meantime if you have any questions feel free to contact me.

Commander Dave Bertini
Menlo Park Police Department
701 Laurel Street
Menlo Park, CA. 94025
650.330.6321

From: Bertini, David C
Sent: Tuesday, July 21, 2015 6:14 PM
To: 'David Tresmontan'; 'jimmy.mazon@rosewoodhotels.com'; 'tsanchez@smcgov.org'; Steve Wagstaffe; McClure, William (wlm@jsmf.com)
Cc: Dixon, William A; Jonsen, Robert (RJonsen@menlopark.org); Greg Munks (gmunks@co.sanmateo.ca.us)
Subject: RE: Special Event Permit Application
Importance: High

Good afternoon all.

As you are aware, Michael Zeleny has submitted an application for a "special event" to be held somewhere in front of the Rosewood Hotel / NEA Property located at 2825 Sand Hill Road in Menlo Park. This "special event" would consist of a very similar protest he has conducted in the past, including carrying several unloaded military type firearms, along with a 55" display with sexually explicit caricatures, portable lighting and a generator. The application indicates a set up date of 9-30-15, with the event to be "ongoing" and "indefinite".

Although we intend to deny this application on several grounds (predominately that this is not a "special event" as defined by the City), we are in the process of requesting more information from him on the exact location he was intending as it was not clear on his application. Once we have gone through the formal information gathering process, we will notify him of our decision on his application.

In the meantime, I will be clearing up several legal issues with the District Attorney's Office and then scheduling a meeting with the entities involved (NEA, Rosewood Hotel, Menlo Park Police and City Attorney's Office, SMC Sheriff's Office and the District Attorney's Office). At this meeting we can discuss our combined response in case Zeleny decides to proceed without a permit.

If those interested in attending can please check their availability the week of August 17th or the

week of August 24th, I will set up a meeting to discuss our response to any possible action by Zeleny.

Feel free to contact me if you have any questions.

Thanks.

Commander Dave Bertini
Menlo Park Police Department
701 Laurel Street
Menlo Park, CA. 94025
650.330.6321

From: larvatus@gmail.com [<mailto:larvatus@gmail.com>] **On Behalf Of** Michael Zeleny
Sent: Friday, July 10, 2015 11:05 AM
To: McClure, William; Scott Sandell; Milde, Matt L; Police Chief
Cc: David W. Affeld; Peter Shimamoto
Subject: Special Event Permit Application

Michael Zeleny
michael@massmeans.com
zeleny@post.harvard.edu
7576 Willow Glen Road, Los Angeles, CA 90046
voice:[323.363.1860](tel:323.363.1860)
fax:[323.410.2373](tel:323.410.2373)

City of Menlo Park
Matt Milde
Recreation Program Coordinator
mlmilde@menlopark.org
701 Laurel Street
Menlo Park, CA 94025
voice:[650.330.2223](tel:650.330.2223)
fax:[650.330.2242](tel:650.330.2242)

By email, fax, and postal mail.

Starting in October 2015, we shall maintain a portable multimedia presentation illustrating ongoing corporate support of New Enterprise Associates (NEA) for incestuous child rapist Min Zhu, and continuing until NEA publicly acknowledges its wrongdoing and severs its relationship with Min Zhu, Scott Sandell, and Dick Kramlich. I shall be present on site around the clock, served by support staff and equipped with fully operational, exposed and unloaded military grade firearms and loaded ammunition feeding devices therefor, including without limitation, a 9mm Para semiautomatic SIG P210 pistol, and a 7.65x51mm NATO semiautomatic LRB M25 rifle and tripod-mounted belt-fed Browning M1919a4, in full compliance with all applicable laws. A 55" portable media display powered by a portable gas generator will display videos featuring explicit representations of sexual violence committed

by NEA's publicly disgraced protégé. A sample image can be found at <http://larvatus.livejournal.com/371973.html>. All media aspects of this event will be subject to content-neutral regulation negotiated with Menlo Park authorities. My fundamental rights under the First and Second Amendments of the Constitution of the United States are reserved and non-negotiable.

A site map can be found at <https://www.google.com/maps/@37.4197308,-122.2137188,17z/>. My display will be confined to the median strip on Sand Hill Road directly across the NEA headquarters. No obstruction of automotive or foot traffic will take place. Please contact me to arrange for the payment of the special event fee and discuss any organizational matters. Please address all legal inquiries and requests to David W. Affeld, Affeld Grivakes Zucker LLP, 2049 Century Park East, Suite 2460, Los Angeles, CA 90067, voice:[310.979.8700](tel:310.979.8700), fax:[310.979.8701](tel:310.979.8701).

cc:

Bill McClure
Menlo Park City Attorney
wlm@jsmf.com voice:[650.330.6610](tel:650.330.6610)
Jorgenson, Siegel, McClure & Flegel, LLP
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Robert Jonsen
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Scott Sandell
New Enterprise Associates
ssandell@nea.com
2855 Sand Hill Road
Menlo Park, CA 94025
United States
voice:[650.854.9499](tel:650.854.9499)
fax:[650.854.9397](tel:650.854.9397)

Michael@massmeans.com | Zeleny@post.harvard.edu | 7576 Willow Glen Road, Los Angeles, CA 90046 | voice:[323.363.1860](tel:323.363.1860) | fax:[323.410.2373](tel:323.410.2373)
<http://larvatus.livejournal.com> | "All of old. Nothing else ever. Ever tried. Ever failed. No matter. Try again. Fail again. Fail better." — Samuel Beckett

PROOF OF SERVICE

I hereby certify that on October 16, 2019, I electronically filed the foregoing document using the Court's CM/ECF system. I am informed and believe that the CM/ECF system will send a notice of electronic filing to the interested parties.

s/ Damion Robinson
Damion Robinson